

REMARKS

The Final Office Action, mailed February 23, 2006, considered and rejected claims 1-44. Claims 1-5, 7-8, 11-19, 21-22, 25-31, 34-40 and 43-44 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wyman (U.S. Patent No. 5,204,897) in view of Misra et al. (U.S. Patent No. 6,189,146). Claims 6, 9-10, 20, 23-24, 32-33 and 41-42 were rejected under 35 U.S.C. 103(a) as being unpatentable over Wyman in view of Misra et al as applied to claim 1 above and further in view of England et al (U.S. Patent No. 6,330,670).¹

By this paper claims 1, 15, 29, and 37 are amended so that claims 1-44 remain pending. Claims 1, 15, 29, and 37 are the only independent claims at issue.

In the last Office Action, the independent claims (1, 15, 29, & 37) were rejected under 37 U.S.C. § 103 in view of Wyman and Misra. Applicant respectfully submits, however, that Wyman and Misra fail to anticipate or make obvious the claimed invention for at least failing to teach or suggest "pre-licensing" in the manner claimed. Wyman and Misra also fail to teach or suggest allowing access to protected content "when the principal does not have access to a rights management server," in the manner claimed.

It should also be appreciated that whereas the present invention is generally concerned with licensing of "content," Wyman is generally concerned with the licensing of computing applications or "programs" and "products," and such that the "delegate" server of Wyman is clearly distinct from the "message server" of the present application. In view of at least the foregoing distinctions, Applicant respectfully submits that Wyman and Misra fail to anticipate or make obvious the claimed invention and that the rejections under 37 U.S.C. § 103 should therefore be withdrawn.

As mentioned above, it should first be noted that the Wyman Patent is directed towards a "license management system ... to account for *software product usage* in a computer system." (*See* Wyman col. 6 ln. 43-45 (emphasis added).) The present invention, in contrast, is directed toward "*pre-licensing content* subject to rights management in order to allow a principal access to the content *when the principal does not have access to a rights management server.*" (*See* Application ¶ 2 (emphasis added).)

¹ Although the prior art status of the cited art is not being challenged at this time, Applicants reserve the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

One fundamental distinction between Wyman and the present invention is that the present invention provides a method whereby a principal may "*pre-license*" content such that the principal may "access ... content when the principal does not have access to the rights management server." (*See Application, generally, and independent Claims 1, 15, 29, & 37.*) Wyman, in contrast, is directed towards management of licensed applications in an environment where the user CPU, upon which licensed programs execute, has communications access to a "license management server." (*See Wyman Abstract.*) Wyman specifically requires access to a management server at the time of use whereas the present invention teaches a method whereby access to the rights management server is not required at the time of use. (*See Wyman Abstract (stating "[e]ach licensed product upon start-up makes a call to a license server to check on whether usage is permitted").*) In Wyman, the "important point being that *the user CPUs of the software products in question can communicate readily and quickly with their respective server nodes.*" (*Wyman col. 10 ln. 3-7 (emphasis added).*) In the present invention, content may be accessed when the CPU upon which the content is being accessed "does not have access to a rights management server." (*See Application ¶ 2.*) So, a fundamental and irreconcilable distinction between the present invention and the invention taught by Wyman is that Wyman requires the user CPU to have access to some rights management server - either the master or the delegate - before access execution of a program may be allowed. In the present invention, the principal may open, view, and operate upon the content even when the principal "does not have access to a rights management server." (*See Application ¶ 2.*)

It should further be noted that Wyman is directed towards the licensing of programs" and "products", whereas the present invention is concerned with the licensing of individual "content" that is utilized by various programs and products. "Content" as disclosed in the present invention is clearly distinct from the "programs" and "products" taught by Wyman. In the present invention, the "term content refers to information and data stored in digital format including: pictures, movies, videos, music, programs, multi-media, games, documents, etc." (*See Application ¶ 3.*) In Wyman, the "programs" which are subject to rights management and licensing are "application programs" "executing on the user CPUs", not the content (*See Wyman col. 9 ln. 43-49.*)

Wyman does not disclose obtaining a use license which allows licensed content to be viewed absent a connection with a license server. In Wyman, both the main server and the so

called "delegate" server are still "rights management servers" and one such server must be available to the user's CPU at the time program execution is desired. In Wyman, "[e]ach licensed product *upon start-up makes a call to a license server* to check on whether usage is permitted." (*See Wyman Abstract (emphasis added).*) In the present invention, a user may have "access to the content when the [user] does not have access to a rights management server." (Application ¶ 2.)

Wyman clearly fails to disclose "pre-licensing" content, in the manner claimed, and such that it can be viewed when the principal cannot connect to a rights management server, such as, for example, "when [the user is] not connected to the network, e.g., when traveling," and so forth. (See Application ¶ 5). Without a connection to a network, the method disclosed in Wyman cannot operate as it requires a connection with a "license management server" before the "products" or "programs" of Wyman may operate. (*See Wyman Abstract.*)

It should be noted that the "delegate" server as taught by Wyman is clearly distinct from the "message server" as is taught in the present invention. In the rejection of independent claims 1, 15, 29, and 37, the Examiner has equated the "delegate" server of Wyman and the "message server" of the present invention. Such an association is mistaken. It is clear from Wyman, Fig. 7, that the "delegate" server of Wyman is, indeed, a license management server. It is clear from the Application, Figures 2(a)–(c) and accompanying discussion, that the "Message Server" and "Rights Management Server" ("RMS") are distinct. The Message Server in the present invention is the server which delivers content to the principal, it is not (necessarily) the server which manages the rights to access the content delivered. A "message server" in the present invention "receives messages and makes them available to principals or their agents" (*See Application ¶ 8*). An example message server is an e-mail server (but a message server, as disclosed in the application, may be more or things other than an e-mail server and is not limited to just an email server).

Wyman's "delegate" server is a rights management server which can administer rights when a connection to the master rights server is not available from the principal's computer. In the present invention, rights may be obtained from a rights management server and sent to a principal's computer such that the rights may be applied and the principal may have access to the protected content even "when the principal does not have access to [any] rights management server" – master or delegate. (*See Application and claims 1, 15, 29, and 37.*)

In the last Office Action, the Examiner equated both the "message server" and the "sending computer system" in the present invention with the License Management Server of Wyman. (see response ¶ 3.2). For at least the foregoing reasons, Applicant respectfully submits that this association is incorrect and the Applicant, therefore, respectfully requests that rejections based upon this mistaken equivalence be withdrawn.

In the last action, it was also reasoned that the combination of Misra "would have been obvious to one of ordinary skill in the art because *it allows the client to request and obtain license from the license server or the issuer and establish a trusted communications* without the need to trust the intermediate server . . ." (See 23-Feb-06 Office Action § 3.2 (emphasis added).) In the present invention, a user may have "access to the content when the [user] does not have access to a rights management server." (See Application ¶ 2.) The two preceding statements clearly point out a particular distinction between the cited prior art and that which is disclosed and claimed by the present invention. In the present invention, a client never has to "request and obtain a license from the license server or the issuer" and can view the content, up to the rights permitted in the publication license, without any connection with any license server. (See Application ¶ 2.) In the present invention, it is the sender and the Message Server which provide the principal with the use license so that the principal may view the content without the added step of requesting a license from a license server or the necessity of a connection to a license server.

It should further be noted that the present invention teaches and recites in the independent claims the "pre-licensing" of content such that the content may be viewed up to the rights permitted in the publication license, without any connection with any license server. (See Application ¶ 2; independent claims 1, 15, 29, & 37.) Wyman does not disclose pre-licensing in any form. In Wyman, each user CPU must access the "license management server" at run time to determine if there is an adequate license for the intended use of the licensed software. (See Wyman Abstract.) The present invention clearly teaches "pre-licensing" such that a principal's computer may access protected content even when access to a rights management server is not available. (See Application ¶ 2, independent claims 1, 15, 29, 27.)

The applicant has amended independent claims 1, 15, 29, and 37 to more particularly point out that which is taught by the present invention and which further distinguishes it from Wyman and Misra.²

All amendments to the claims have been fully discussed in the preceding remarks. In the present invention, the Application discloses and the independent claims all contain the limitations of "pre-licensing" and access to content ""when the principal does not have access to the rights management server." Those limitations, as recited in combination with the other recited claim elements, are never in any way disclosed or suggested by Wyman or Misra (alone or in combination). In view of the discussion, *supra*, and in view of the amendments to the claims, it is the Applicant's view that all of the independent claims are distinct from that taught by Wyman and Misra and, as such, all of the independent and dependent claims should be in form for allowance.

In view of the foregoing, Applicants respectfully submit that the other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicants acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, Applicants reserve the right to challenge any of the purported teachings or assertions made in the last action, including any official notice, at any appropriate time in the future, should it arise.

²It should be noted that the Applicant, as has been discussed *supra*, believes that the present invention is easily distinct from Wyman and Misra and does not concede that either Wyman or Misra teach the elements of the present invention.

For at least the foregoing reasons, Applicants respectfully submit that the pending claims are neither anticipated by nor made obvious by the art of record. In the event that the Examiner finds and remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

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Respectfully submitted,



RICK D. NYDEGGER
Registration No. 28,651
JENS C. JENKINS
Registration No. 44,803
Attorneys for Applicant
Customer No. 47973

RDN:JCJ:ppa
AHY0000000409V001